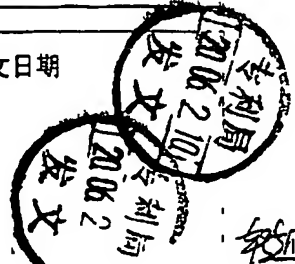

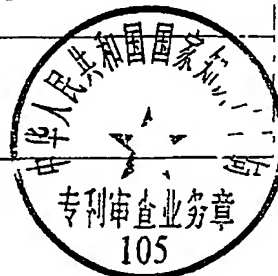




中华人民共和国国家知识产权局

040431-38

邮政编码 100032 北京市西城区金融街 19 号富凯大厦 B 座 11 层 中原信达知识产权代理有限责任公司 樊卫民,袁炳泽	发文日期  0317
申请号 038009439 	
申请人 LG 电子株式会社	绝 限 2006-06-25
发明创造名称 高密度光盘以及用于记录和再现其上的加密数据的方法	



第一次审查意见通知书

(进入国家阶段的 PCT 申请)

- 1 ☒ 应申请人提出的实审请求,根据专利法第 35 条第 1 款的规定,国家知识产权局对上述发明专利申请进行实质审查。
☐ 根据专利法第 35 条第 2 款的规定,国家知识产权局专利局决定自行对上述发明专利申请进行审查
- 2 ☒ 申请人要求以在:
KR 专利局的申请日 2002 年 06 月 05 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日。
- 3 ☐ 申请人于 年 月 日提交的修改文件,不符合专利法实施细则第 51 条的规定。
☐ 申请人提交的下列修改文件不符合专利法第 33 条的规定。
☐ 国际初步审查报告附件的中文译文。
☐ 依据专利合作条约第 19 条规定所提交的修改文件的中文译文。
☐ 依据专利合作条约第 28 条或 41 条规定所提交的修改文件。
☐
- 4 ☒ 审查是针对原始提交的国际申请的中文译文进行的。
☐ 审查是针对下述申请文件进行的
☐ 说明书 第 页,按照原始提交的国际申请文件的中文译文,
第 页,按照国际初步审查报告附件的中文译文,
第 页,按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件
第 页,按照依据专利法实施细则第 51 条规定所提交的修改文件。
☐
☐ 权利要求 第 项,按照原始提交的国际申请文件的中文译文
第 项,按照依据专利合作条约第 19 条规定所提交的修改文件的中文译文
第 项,按照国际初步审查报告附件的中文译文,
第 项,按照依据专利合作条约第 28 条或 41 条所提交的修改文件
第 项,按照依据专利法实施细则第 51 条规定所提交的修改文件。
☐
☐ 附图 第 页,按照原始提交的国际申请文件的中文译文
第 页,按照国际初步审查报告附件的中文译文,
第 页,按照依据专利合作条约第 28 条或 41 条所提交的修改文件,
第 页,按照依据专利法实施细则第 51 条规定所提交的修改文件。



☐

☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用)

编号	文件号或名称	公开日期 (或抵触申请的申请日)
1	CN1135632A	1996-11-13
2	CN1140875A	1997-01-22
3	US6122245A	2000-09-19

5 审查的结论性意见

☒ 关于说明书

- ☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。
☐ 说明书不符合专利法第 26 条第 3 款的规定。
☐ 说明书不符合专利法第 33 条的规定。
☒ 说明书的撰写不符合专利法实施细则第 18 条的规定。

☒ 关于权利要求书

- ☐ 权利要求 不具备专利法第 22 条第 2 款规定的新颖性。
☒ 权利要求 5, 7, 8, 10 不具备专利法第 22 条第 3 款规定的创造性。
☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。
☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。
☐ 权利要求 不符合专利法第 26 条第 4 款的规定。
☐ 权利要求 不符合专利法第 31 条第 1 款的规定。
☐ 权利要求 不符合专利法第 33 条的规定。
☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
☐ 权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。
☒ 权利要求 1-5, 8, 9 不符合专利法实施细则第 20 条的规定。
☐ 权利要求 不符合专利法实施细则第 21 条的规定。
☐ 权利要求 不符合专利法实施细则第 22 条的规定。
☐ 权利要求 不符合专利法实施细则第 23 条的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6 基于上述结论性意见, 审查员认为

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
☒ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
☐ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

7 申请人应注意下述事项

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
 (2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
 (3) 申请人的意见陈述书和 / 或修改文本应邮寄或递交国家知识产权局专利局受理处, 几未邮寄或递交给受理处的文件不具备法律效力。
 (4) 未经预约, 申请人和 / 或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8 本通知书正文部分共有 2 页, 并附有下列附件

- ☒ 引用的对比文件的复印件共 3 份 61 页。

审查员 董泽华 (9302)

审查部门

审查协作中心

2006 年 1 月 18 日

21302
2002 8



回函请寄 100088 北京市海淀区蓟门桥西土城路 8 号 国家知识产权局专利局受理处收
 (注 凡寄给审查员个人的信函不具有法律效力)

第一次审查意见通知书正文

申请号 038009439

权利要求1要求保护一种光盘，而所述技术特征其上的数据的记录格式，但是数据的记录格式对光盘本身的物理结构没有任何实质性影响，导致要求保护的主体光盘和所述技术特征之间逻辑上不一致，进而导致要求保护的范围不清楚，不符合专利法实施细则第二十条第一款的规定，其从属权利要求2-3均是对该数据进一步限定，同样对光盘本身的物理结构没有任何实质性影响，导致要求保护的范围不清楚，也不符合专利法实施细则第二十条第一款的规定。

权利要求4所述技术方案对现有技术作出贡献的是数据的记录格式，也就是说权利要求4所述光盘和现有光盘的区别是其上的数据的记录格式，但是数据的记录格式对光盘本身的物理结构没有任何实质性影响，导致作为产品权利要求的权利要求4要求保护的光盘和现有技术中的光盘在结构上没有实质性的区别，进而导致要求保护的范围不清楚，不符合专利法实施细则第二十条第一款的规定。

权利要求5包括两个并列技术方案，其中利用地址单元编号加密的技术方案不具有创造性，因为对比文件1（CN1135632A）公开了一种数据记录介质的记录方法，其中（具体参见权利要求1）披露了以下内容 在记录介质上记录数据可以采用从外到里的方式记录。权利要求5和对比文件1的区别在于权利要求5中的数据利用地址数据加了密，对比文件2（CN1140875A）公开了一种利用地址加密的方法，其中（具体参见权利要求1、6、11、16以及说明书第3页第7行至第9页第1行）披露了以下内容 选定预定地址，在预定地址处，形成预定缺陷来加密数据的内容，对比文件2给出了利用地址信息加密的技术启示，因此当本领域普通技术人员在面临对比文件1存在的数据加密的技术问题时，结合对比文件2给出的技术启示，从而得到利用地址数据加密信息后，把加密的数据以从外到里的方式记录在光盘上的技术方案是显而易见的，也就是说得到权利要求5技术方案是显而易见的，所以权利要求5不具有专利法第二十二条第三款规定的创造性。

权利要求5所述的利用盘半径信息加密的技术方案中，所述“盘半径”通常是指从盘中心到盘外沿的距离，用在在这里导致保护范围不清楚，不符合专利法实施细则第二十条第一款的规定。权利要求8存在同样的缺陷。

权利要求7也不具有创造性，对比文件3（US6122245A）公开了一种光学记录介质，其中（具体参见说明书第3栏第20—67行）披露了以下内容：将数据分成组，并以连续的方式记录在光盘上（说明书第3栏第64—65行，对比文件3给出了利用不连续记录未加密的技术启示，因此当本领域普通技术人员在面临解决对比文件1存在的加密的问题时，进一步将对比文件3和对比文件1也结合起来，从而得到权利要求7所记载的方案是显而易见的，所以权利要求7也不具有专利法第二十二条第三款规定的创造性。

权利要求8和10分别要求保护和权利要求5和7要求保护的加密记录方法相对应，解密再现的方法，对比文件2说明书第8页第5—10行给出了利用预定地址检测预定记录方法解密的内容。对比文件3公开了数据从盘的外侧向内侧记录数据，那么再现时自然按照记录的顺序再现记录的信息是显而易见的，因此分别结合对权利要求5和7的论述，权利要求8和10也不具有专利法第二十二条第三款规定的创造性。

说明书第4页倒数第2行所述“外周的标准”含义不清楚，倒数第3—2行所述盘中信息用于检测距离不通顺，含义不清楚，不符合专利法实施细则第十八条第三款的规定。请申请人全文校对。

针对上述审查意见，申请人应该在指定的期限内进行意见陈述或提交新修改的申请文件，由于上述审查意见中指出的问题属于专利法实施细则第五十三条规定的驳回情形，因此如果申请人坚持现申请文本不作修改而又不能在意见陈述书中充分论述符合专利法及其实施细则相关规定的理由，依据专利法第三十八条本申请将被驳回。申请人应该按照通知书的要求进行修改，主动修改将会导致文本不予接受。任何修改都必须符合专利法第三十三条以及实施细则第五十一条之规定，根据专利法实施细则第五十二条的规定，请申请人附上修改前后的对照页。

审查员 董泽华

代码 9302

PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Address Receiving Section of the Chinese Patent Office No 6 Tucheng Road West, Haidian District Beijing Postal code 100088

Zip Code 100032 China Sinda Intellectual Property Ltd B11th Floor, Focus place 19 Financial Street Beijing, P R China Weimin Fan, Bingze Yuan		
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Application No	03800943 9	Date of Issuing
Applicant	LG ELECTRONICS INC	February 10, 2006
Title of Invention	HIGH-DENSITY OPTICAL DISC, METHOD AND RECORDING AND REPRODUCING ENCRYPTED DATA THEREON	

NOTIFICATION OF THE FIRST OFFICE ACTION

(for Entry of an International Patent Application into the National Phase)

- 1 ☒ Applicant made the request for substantive examination in accordance with the provisions of Paragraph 1 of Article 35 of the Patent Law, the Examiner has proceeded with the examination as to substance of the above identified patent application for invention

☐ In accordance with the provisions of Paragraph 2 of Article 35 of the Patent Law, the State Intellectual Property Office (SIPO) has, on its own initiative, decided to proceed with the examination as to substance of the same

- 2 ☒ Applicant claims

June 5, 2002, when the previous application was filed in KR, as a priority date,
 _____, when the previous application was filed in _____, as a priority date,
 _____, when the previous application was filed in _____, as a priority date

- 3 ☐ For the reasons indicated in the text of this Action, the following documents submitted have been rejected under Article 33 of the Patent Law

- ☐ The Chinese translation of the annex to the international preliminary examination report,
☐ The Chinese translation of the amendments under Article 19 of PCT,
☐ The amendments under Article 28 or 41 of PCT,
☐ The amendments under Rule 51 of the Implementing Regulations of the Patent Law

- 4 ☒ The application has been examined on the basis of the translation of the originally filed international application,

☐ The application has been examined on the basis of the following documents

- ☐ Description, pages _____, as in the translation of the originally filed international application,
 pages _____, as in the translation of the annex to IPER,
 pages _____, as in the amendments under Article 28 or 41 of PCT,
 pages _____, as in the amendments under Rule 51 of the Implementing Regulations
- ☐ Claims, Nos _____, as in the translation of the originally filed international application,
 No _____, as in the translation of the amendments under Article 19 of PCT,
 Nos _____, as in the translation of the annex to IPER,
 Nos _____, as in the amendments under Article 28 or 41 of PCT,
 Nos _____, as in the amendments under Rule 51 of the Implementing Regulations
- ☐ Drawings, sheets _____, as in the translation of the originally filed international application,
 sheets _____, as in the translation of the annex to IPER,
 sheets _____, as in the amendments under Article 28 or 41 of PCT
 sheets _____, as in the amendments under Rule 51 of the Implementing Regulations

- 5 ☒ The following references are cited in the notification. The codes of the references will be used in further examination procedures

Code	Reference No. or Title	Publication Date (or Filing Date of a Conflicting Application)
1	CN1135632A	November 13, 1996
2	CN1140875A	January 22, 1997
3	US6122245A	September 19, 2000
4		

6 Conclusive opinion

☒ regarding the Description

- ☐ Its content belongs to the scope of Article 5 of the Patent Law which cannot be granted
- ☐ It is not in conformity with the provisions of Paragraph 3 of Article 26 of the Patent Law
- ☐ It is not in conformity with the provisions of Article 33 of the Patent Law
- ☒ The presentation manner of the description is in conformity with Rule 18 of the Implementing Regulations of the China Patent Law

☒ regarding the Claims

- ☐ Claims _____ do not possess novelty under Paragraph 2 of Article 22 of the Patent Law
- ☒ Claims 5, 7, 8, 10 do not possess inventiveness under Paragraph 3 of Article 22 of the Patent Law
- ☐ Claims _____ do not possess practical applicability under Paragraph 4 of Article 22 of the Patent Law
- ☐ Claims _____ fall in the scope of Article 25 of the Patent Law which can not be granted
- ☐ Claims _____ do not meet the requirements of Paragraph 4 of Article 26 of the Patent Law
- ☐ Claims _____ do not meet the requirements of Paragraph 1 of Article 31 of the Patent Law
- ☐ Claims _____ do not meet the requirement of Article 33 of the China Patent Law
- ☐ Claims _____ do not meet the requirements of Paragraph 1 of Rule 13 of the Implementing Regulations
- ☐ Claims _____ don't comply with the interpretation of invention under Paragraph 1 of Rule 2 of the Implementing Regulations of the China Patent Law

Regulations of the China Patent Law

- ☒ Claims 1 - 5, 8, 9 does not meet the requirements of Rule 20 of the Implementing Regulations of the China

Patent Law

- ☐ Claims _____ do not meet the requirements of Rule 21 of the Implementing Regulations of the China Patent Law
- ☐ Claims _____ do not meet the requirements of Rule 22 of the Implementing Regulations of the China Patent Law
- ☐ Claims _____ do not meet the requirements of Rule 23 of the Implementing Regulations of the China Patent Law

Please refer to the text of the Action in detail for the above

7 Based on the above conclusive opinion, the Examiner points out that

- ☐ applicant should amend the application documents according to the requirements of the text of the Action
- ☒ applicant should state the reason that the application may be granted a patent right in the observation and amend the application documents according to the teaching of the text of the Action, otherwise the application may not be granted
- ☐ no substantive contents to be granted are presented in the application. If applicant does not submit his observation or the observation is not reasonable, the application will be rejected

8 The following items shall come to applicant's attention

(1) According to Article 37 of the Patent Law, applicant should submit his observation within 4 months from the date he receives the notification. If, without any justified reasons, the time limit for making a response is not met, the application will be deemed to have been withdrawn.

(2) The amendments to the application documents should meet the requirements of Article 33 of the Patent Law. The amended documents should be submitted in two copies and the amending manner should comply with the relevant regulations of the Examination Guide.

(3) The observation and / or amended documents should be mailed to or submitted directly to the Receiving Section of the SIPO, and no other submissions have legal effects

(4) Applicant and / or attorney may not have a meeting with the Examiner unless an appointment has been made in advance

9 The text of this Action consists of 2 pages, including the following annexes

☒ the cited references 61 page(s), 3 copy(ies)

Text of the First Office Action

- 1 Claim 1 is directed to a disc, but in essence, it defines the recording format of the data, which however does not have any substantive effect to the physical structure of the disc. The subject matter of claim 1 and the technical features defined therein are hence inconsistent. Therefore, claim 1 is objected to under Rule 20(1) of the Implementing Regulations of the Chinese Patent Law for the ambiguous protection scope. Dependent claims 2-3 make further limitations to the data, which likewise, do not have any substantive effect to the physical structure of the disc. Therefore, said claims 2-3 are also objected to under Rule 20(1) of the Implementing Regulations of the Chinese Patent Law for the ambiguous protection scope.
- 2 Claim 4 is contributive to prior art in the data recording format, in other words, the disc defined in claim 4 differs from a common disc only in the data recording format. However, the recording format of the data does not have any substantive effect to the physical structure of the disc, which causes the disc defined in the product claim 4 to have no substantive difference from a common disc in terms of structure. Therefore, claim 4 is objected to under Rule 20(1) of the Implementing Regulations of the Chinese Patent Law for the ambiguous protection scope.
- 3 Claim 5 comprises two parallel technical solutions. The one of encrypting data by use of address unit number is not inventive because reference 1 (CN1135632A, hereinafter referred to as D1) discloses a recording method of a data medium, and teaches the step of recording data on a recording medium from the outer side of the medium to the inner side of the same (c f claim 1 thereof).

Claim 5 differs from D1 in that the data in claim 5 is encrypted with address data. Reference 2 (CN1140875A, hereinafter referred to as D2) discloses a method for encrypting with address, particularly teaching the steps of selecting a predetermined address and then forming a predetermined defect at the predetermined address for encrypting the content of the data (c f claims 1, 6, 11 and 16 and line 7 on page 3 to line 1 on page 9 thereof). As can be seen, D2 has given the hint of encrypting information with address data. Accordingly, it is obvious to those skilled in the art to come to the technical solution of encrypting information with address data and then recording the encrypted data on a disc from the outer side to the inner side of the disc when the data recorded in D1 needs to be encrypted, in other words, the technical solution of claim 12 is obviously obtainable. For said reasons, claim 5 is rejected under Article 22(3) of the Chinese Patent Law for the lack of inventiveness.

- 4 In the step of encrypting data with the information of the radius of a disc, which is defined in claim 5, the radius of a disc should refer to the distance from the center of the disc to the outer rim of the same. Its use in claim 5 causes an ambiguous protection scope. Therefore, claim 5 is also objected to under Rule 20(1) of the Implementing Regulations of the Chinese Patent Law. Claim 8 has the same defect.
- 5 Claim 7 is not inventive. D1 is directed to an optical recording medium, and particularly discloses the following technical features: dividing the data into groups and then recording them on a disc in a discontinuous manner (c f lines 20-67 in column 3 thereof). Obviously, D3 has given the hint of encrypting data with discontinuous records. Therefore, when facing the problem of encrypting the data of D1, those skilled in the art will readily come to the solution of combining D3 with D1, thus, the technical solution of claim 7 is also obtainable. Therefore, claim 7 is also rejected under Article

22(3) of the Chinese Patent Law for the lack of inventiveness

- 6 Claims 8 and 10 are directed to a method for reproducing encrypted data corresponding to the encrypting method defined in claims 5 and 7. D2 already teaches the content of utilizing a predetermined address to detect predetermined defects (c f lines 5-10 on page 8). D3 teaches the step of recording data from the outer side to the inner side of a disc. Accordingly, it is obvious that the recorded information will be reproduced in their recording order. Therefore, on respective combination of the comments on claims 5 and 7, claims 8 and 10 are also unacceptable under Article 22(3) of the Chinese Patent Law.
- 7 In the Description, the expression of "a criterion of the outer periphery" is indefinite (see line 31 on page 5 of the English Description). The statement of "disc radius information used for detecting a distance" is ambiguous (see line 30 on page 5 of the English Description). Therefore, the Description is rejected under Rule 18(3) of the Implementing Regulations of the Chinese Patent Law. The applicant is required to proof read the whole text.

The applicant is required to submit a new edition of application documents within the designated time limit. Since the above commented defects fall under Rule 53 of the Implementing Regulations of the Chinese Patent Law, this application will be rejected under Article 38 of the Chinese Patent Law if the applicant refuses to amend the application while is unable to provide convincing observations for the applicant's abidance by the Chinese Patent Law and its Implementing Regulations. The applicant should make amendment per the comments hereinabove. Any voluntary amendment will cause the application to be unacceptable. Any amendment to the application must comply with Article 33 of the Chinese Patent Law and Rule 51 of the Implementing Regulations of the Chinese Patent Law. According to Rule 52 of the

Implementing Regulations of the Chinese Patent Law, the applicant is required to provide marked up sheets showing where the amendments are made